

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1. ALAINE F. ESPINOSA CASTILLO,)
vs.)
Plaintiff,)
vs.) Case No.: 4:22-cv-00054-CVE-CDL
)
1. KELVIN SANCHEZ ROSARIO;)
2. C.R. ENGLAND, INC.,)
vs.)
Defendants.)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §1446(a), the Defendants, Kelvin Sanchez Rosario and C.R. England, Inc., by counsel, hereby file their Notice of Removal. In support, Defendants, Kelvin Sanchez Rosario and C.R. England, Inc., show the following grounds for removal:

1. Defendants are named in the state court action *Alaine F. Espinosa Castillo v. Kelvin Sanchez Rosario; C.R. England, Inc.*, Case No. CJ-2021-282, pending in the District Court in and for Creek County, Oklahoma. The Petition is attached as Exhibit 1. All Defendants are represented by the undersigned.

Diversity of the Parties

2. Upon information and belief, Plaintiff, Alaine F. Espinosa Castillo, (“Plaintiff”) is a resident and citizen and domiciled in the State of Nevada.

3. Defendant, Kelvin Sanchez Rosario is a resident of, citizen of, and domiciled in the State of Florida.

4. Defendant, C.R. England, Inc., is a Utah Corporation with its principal place of business in Salt Lake City, Utah.

Venue

5. Venue is proper in this Court for purposes of removal. Plaintiff brought this action in the District Court of Creek County, Oklahoma – located within the federal judicial district for the Northern District of Oklahoma. 28 U.S.C. § 116(c). Therefore, venue is proper in this Court because it is the federal “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

Amount in Controversy

6. Plaintiff seeks judgment against Defendants for damages in excess of \$75,000.00. (Ex. 1, Plaintiff’s Petition, “Wherefore” paragraph). Plaintiff alleges that Defendant Rosario injured him in an accident on June 20, 2020, for which Rosario and C.R. England—vicariously—are liable. Based upon the amount of damages in which Plaintiff has alleged are at issue, it is clear that Plaintiff’s Petition satisfies the amount of controversy requirement set forth at 28 U.S.C. § 1446(c)(2).

Timeliness of Removal

7. Defendant, C.R. England, Inc., was served the Petition and an issued Summons via certified mail through The Corporation Company on or about January 11, 2022. (Ex. 2, C.R. England Summons and Return of Service). Therefore, Defendant, C.R. England, Inc., timely files this Notice of Removal within 30 days after service of summons upon it pursuant to 28 U.S.C. § 1446(b).

8. Plaintiff has not yet obtained service on Defendant, Kelvin Sanchez Rosario. Therefore, Defendant, Kelvin Sanchez Rosario, timely files this Notice of Removal pursuant to 28 U.S.C. § 1446(b).

Consent

9. Defendants, Kelvin Sanchez Rosario and C.R. England, Inc., are represented by the same counsel and consent to removal of this action.

Miscellaneous

10. Pursuant to 28 U.S.C. § 1446(a), copies “of all process, pleadings and orders served upon” Defendants, C.R. England, Inc., and Kelvin Sanchez Rosario in the aforementioned state action are identified and attached as follows: Petition (Ex. 1), and C.R. England Summons and Return of Service (Ex. 2).

11. Pursuant to LCvR81.2, “a clearly legible copy of all documents filed or served in the case, along with a docket sheet of the case” are identified and attached as follows: Petition (Ex. 1), C.R. England Summons and Return of Service (Ex. 2), and Docket Sheet (Ex. 3).

12. Pursuant to LCvR 7.1, Defendant, C.R. England, Inc.’s corporate disclosure statement is identified and attached hereto (Ex. 4).

13. Pursuant to LCvR81.1, jury trial is hereby demanded.

Conclusion

14. Defendants, Kelvin Sanchez Rosario and C.R. England, Inc. will promptly give written notice of the filing of this Notice of Removal to Plaintiff’s counsel and will promptly file a copy of the Notice of Removal with the Court Clerk for Tulsa County, Oklahoma, as required.

15. In the event this Court identifies a defect in this Notice of Removal, Defendants, Kelvin Sanchez Rosario and C.R. England, Inc. respectfully request the Court grant them leave to amend this Notice to cure the defect. *See, generally, Hendrix v. New Amsterdam Cas. Co.* 390 F.2d 299, 301-302 (10th Cir 1968).

Respectfully submitted,

PIERCE COUCH HENDRICKSON
BAYSINGER & GREEN, L.L.P.

s/Bryan E. Stanton

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CERTIFICATE OF MAILING

I hereby certify that on January 28, 2022, I electronically transmitted a full, true and correct copy of the above and foregoing document to the Clerk of Court using the ECF System for filing and transmittal of Notice of Electronic Filing to the following ECF registrants:

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